

FSMA (as amended from time to time), as the London Stock Exchange plc may approve) with the object of spreading investment risk and managing its portfolio for the benefit of its shareholders;

**"Investment Cost"** means the aggregate amount subscribed and paid up on the date of adoption of these Articles by the Original Investors in respect of the "B" Ordinary Shares and advanced or committed by the Original Investors in subscribing for the Subordinated Preference Certificates together with any additional amounts invested in, advanced or committed to the Company or any group undertaking of the Company from time to time by the Original Investors whether by way of share capital (including any premium paid up in respect of any shares), loan or loan capital or any other form of commitment including by way of guarantee or indemnity of any such company's obligations and including any commitment to invest (together referred to as **"Relevant Securities"**) provided always that, except for the purposes of Articles 15 and 39.9 where Relevant Securities are sold by the Original Investors on or prior to the first anniversary of the Completion Date there shall be deducted from the Investment Cost an amount equal to the aggregate amount subscribed and paid up by the Original Investors in respect of those Relevant Securities so sold;

**"investment trust"** means a company which has been approved by, or is seeking approval from, the Inland Revenue as an investment trust for the purposes of s.842 of the ICTA in respect of its most recent accounting period or which has announced that it will direct its affairs so as to enable it to seek such approval in respect of its current accounting period;

**"LESO"** means any company, partnership or other person or entity that owns, controls or operates a land earth station or any Affiliate thereof and for these purposes **"control"** shall have the meaning given to it in Article 39.9.2 of the Articles of Association;

**"Listing"** means (A) the admission of the shares of the Company or a New Ultimate Holding Company (the **"Issuer"**) to (i) the Official List of the UK Listing Authority becoming effective (in accordance with paragraph 7.1 of the rules made by the UK Listing Authority pursuant to s.74 of the Financial Services and Markets Act 2000, as amended or its successor legislation) and (ii) trading on the London Stock Exchange plc becoming effective (in accordance with paragraph 2.1 of the Admission and Disclosure Standards of the London Stock Exchange plc from time to time) or (B) the admission to listing of shares of the Issuer on any investment exchange in the case of both (A) and (B) above in connection with which shares with an aggregate market value of at least \$ 100,000,000 (at the time of Listing) are sold or placed by way of sale by existing shareholders of the Issuer and/or by way of issue of new shares by the Issuer;

**"Majority Original Investor Stake"** means a holding of the issued equity share capital in the Company by the Original Investors, which, when taken together shall constitute a majority of the total issued equity share capital of the Company, **PROVIDED THAT** in determining whether the Original Investors continue to hold a majority of the issued

equity share capital of the Company, any equity shares issued (whether for cash or non-cash consideration) in circumstances where no offer to the holders of Ordinary Shares of pre-emption under Article 20.2 or otherwise on a pro rata basis to their existing holdings of Ordinary Shares has been made in respect of such issue shall be disregarded;

**"Managers"** means (i) those individuals listed in Schedule 1 of the Shareholders Agreement, and (ii) any other person who holds any "A" Ordinary Shares and undertakes to perform the obligations of a Manager under a Deed of Adherence entered into pursuant to the Shareholders Agreement, and **"Manager"** means any one of them;

**"MidCo"** means Grapedrive Limited, (registered in England under no. 4886115), whose registered office is at 10 Upper Bank Street, London E14 5JJ;

**"New Ultimate Holding Company"** has the meaning given in the Shareholder Agreement;

**"Non-Permitted Transferee"** means other than a LESO who is also an Additional Investor Shareholder (i) any LESO, (ii) a distribution partner of the Group where the Board, acting reasonably, resolves that a transfer to such distribution partner will or is likely to result in a significant commercial or economic conflict between the distribution partner transferee and the Group or a majority of the shareholders in the Company, (iii) a service provider to the Group where the Board, acting reasonably, resolves that a transfer to such service provider will or is likely to result in a significant commercial or economic conflict between the service provider and the Group or a majority of the shareholders in the Company, (iv) a material supplier to the Group where the Board, acting reasonably, resolves that a transfer to such material supplier will or is likely to result in a significant commercial or economic conflict between the proposed transferee and the Group or a majority of the shareholders in the Company, (v) any provider of mobile satellite communication services for aeronautical, maritime or land segments, (vi) any party whose shareholding in the Company may, in the opinion of the board, jeopardise or prejudice the operations of the Group as a result of it being regarded as unsuitable or not fit and proper by any regulatory government or regulatory authority or (vii) any transferee who has not adhered to the Shareholders Agreement and in all the preceding cases any Affiliate of such person;

**"office"** means the registered office of the Company;

**"Order"** means the Court's order sanctioning the Scheme under s.425 of the Act;

**"Ordinary Shares"** means together the "A" Ordinary Shares and the "B" Ordinary Shares in the Company and **"Ordinary Share"** means a single share;

**"Original Investor Directors"** means the directors appointed by the Original Investors in accordance with Article 12;

**"Original Investors"** means the Apax Original Investors and the Permira Original Investors;

**"Permira Investor Newco"** means a corporate entity or limited partnership controlled by the Permira Original Investors and incorporated for the purposes of holding shares in the Company or Subordinated Preference Certificates;

**"Permira Original Investors"** means (i) certain Funds advised by Permira Advisers Limited (or an Affiliate thereof) who are shareholders of the Company on or around the date of adoption of these Articles, (ii) a Permira Investor Newco and (iii) any person to whom shares are transferred in accordance with Article 7.1 (d) to (h) by any Permira Investor;

**"Permitted Transferee"** means a person to whom the holders of "A" Ordinary Shares can transfer shares in accordance with Article 4;

**"Post-Listing Valuation"** means the amount determined in accordance with Article 11.3;

**"Qualifying Additional Investor Shareholder"** means any Additional Investor Shareholder whose holding of Ordinary Shares (together with those of its group undertakings to whom it may transfer shares under Article 8.1(d)) is and continues to be equal to or above the Qualifying Threshold; in determining whether a Qualifying Additional Investor Shareholder has ceased to be such, there shall be disregarded any Ordinary Shares issued (or arising from equity securities issued), after the date on which the Additional Investor Shareholder became a Qualifying Additional Investor Shareholder, to other persons (whether for cash or non-cash consideration) in circumstances where no pre-emptive offer in respect of such issue was made on a pro rata basis to the holders of Ordinary Shares (under Article 20.2 or otherwise);

**"Qualifying Threshold"** means the percentage holding of issued Ordinary Shares which is the lower of

- (a) 10%; and
- (b) the product of the following formula:

$$\left( 12.5 \times \frac{43.3}{y} \right) \%$$

Where y is equal to the percentage (expressed as a number) of the issued ordinary shares in Target in respect of which valid elections are made under the Partial Unit Alternative (as defined in the Scheme);

**"Sale"** shall have the meaning set out in Article 14.1;

**"Scheme"** means the scheme of arrangement under s.425 of the Act between Target and the holders of Scheme Shares as set out in the Scheme documentation with or subject to any modification, addition or condition approved or imposed by the Court and agreed by Target and BidCo;

**"Scheme Record Time"** means 6.00 pm on the Business Day immediately preceding the date of the Court Hearing;

**"Scheme Shares"** means (i) the Target Shares in issue at the date of this document; (ii) any Target Shares issued after the date of this document and prior to the Voting Record Time; and (iii) any Target Shares issued at or after the Voting Record Time and prior to the Scheme Record Time on terms that the holder thereof shall be bound by the Scheme;

**"seal"** means the common seal of the Company (if one is adopted);

**"secretary"** means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

**"Senior Facility Agreement"** means the \$975,000,000 senior facility agreement dated on or about the date hereof between, inter alios, the Company, BidCo, Barclays Capital, Credit Suisse First Boston and the Royal Bank of Scotland PLC;

**"Senior Facility Finance Documents"** has the meaning ascribed thereto in the Senior Facility Agreement;

**"Shareholders Agreement"** means the shareholders agreement dated 16 October 2003 between the Company, SPCCo, MidCo, BidCo, the Managers, the Original Investors and the Target together with those who adhere thereto and as amended from time to time;

**"SPCCo"** means Lavenderview Limited (registered in England under no. 4917504) whose registered office is at 10 Upper Bank Street, London E14 5JJ.

**"Strip Proportion"** means the proportion of issued Subordinated Preference Certificates to issued "B" Ordinary Shares immediately following the Effective Date;

**"Subordinated Preference Certificates"** means the subordinated preference certificates or, in the case of certificates to be held by Warrantholders (or "B" Shareholders whose "B" Ordinary Shares were issued pursuant to an exercise of the Warrants), the tranche A subordinated preference certificates, in each case to be issued by SPCCo;

**"Subsequent Offer"** means, in the event that the Scheme is not announced or lapses or is withdrawn, an offer by BidCo for the ordinary share capital of Target under the City Code on Takeovers and Mergers on terms no less favourable than those proposed under the Scheme and approved by the Target;

**"Target"** means Inmarsat Ventures PLC;

**"Target Shares"** means the Ordinary Shares of 10p each in the capital of the Target;

**"Target Shareholders"** means a Holder of Target Shares at the Scheme Record Time;

**"Total Fund Return" means:**

- (i) all sums actually received in cash by the Original Investors in respect of their "B" Ordinary Shares by way of dividend and return of capital on or prior to the Relevant Date (and including the Cash Exit Share Price to the extent received by the Original Investors in cash on the Relevant Date); plus
- (ii) any other sums received in cash by the Original Investors from the Company or any of its group undertakings in respect of the Relevant Securities (including all sums received by the Original Investors on the repayment, redemption and/or cancellation of the Subordinated Preference Certificates) on or prior to the Relevant Date; plus
- (iii) in the case of a Listing, an amount equal to the Post-Listing Valuation of any Retained Shares held by the Original Investors on the Relevant Date; plus
- (iv) in the case of a Sale for non-cash consideration received or receivable by the Original Investors in connection with the Sale, its value shall be as agreed by the holders of not less than 50% in nominal value of the "B" Ordinary Shares and the holders of not less than 50% in nominal value of the "A" Ordinary Shares at least 5 days prior to the Relevant Date or, in the absence of such agreement, as determined by the Independent Expert based on the following principles:
  - (a) the Independent Expert shall take account of any restriction, both in time and in substance on the dealing of the non-cash consideration and the impact of the nature and amount of the non-cash consideration on its marketability;
  - (b) the Independent Expert shall take account of the discounted cashflow effect of the Original Investors not being able to sell or realise cash for the consideration;plus
- (v) in the case of a Sale where the Original Investors continue to hold equity share capital in the Company immediately following the Relevant Date ("Non-Sold Shares"), an amount equal to the Cash Exit Share Price (as defined in Article 11.2.4(b)) multiplied by the number of Non-Sold Shares; plus
- (vi) in the case of any Transfer(s) by the Original Investors of Relevant Securities at any time after the first anniversary of the Completion Date (other than (i) a Transfer pursuant to Articles 7.1(d) to (h) (inclusive) or (ii) a Transfer as part of a Sale), an amount equal to the consideration received by the Original Investors in connection with such Transfer(s); less

- (vii) all costs and expenses incurred and paid and not recovered by the Original Investors in connection with the Sale, Listing or Winding-Up (including legal fees, commissions, transfer costs and any other third party fees and expenses);

For the avoidance of doubt, Total Fund Return shall exclude any fees payable to the Original Investor Directors or the Original Investors in accordance with clause 10 of the Shareholders Agreement;

"Transfer" means a sale, exchange, pledge, transfer, contractual arrangement (whether or not in writing) or disposition (whether direct or indirect) of any share (or interest therein (whether arising by way of mortgage, charge, lien or other security interest or otherwise)) and "Transferred" shall be construed accordingly;

"United Kingdom" means Great Britain and Northern Ireland;

"Voting Record Time" means 6.00 pm on the Business Day prior to the day immediately before the Court Meeting;

"Warrantholder" means a holder of Warrants from time to time;

"Warrant Instrument" has the meaning set out in the Shareholders Agreement; and

"Warrants" means warrants issued pursuant to the Warrant Instrument from time to time.

Unless the context otherwise requires, words or expressions contained in the Articles bear the same meaning as in the Act, but excluding any statutory modification of the Act not in force when the Articles become binding on the Company.

## SHARE CAPITAL

### 2. SHARE CAPITAL

- 2.1 The authorised share capital of the Company at the date of adoption of these Articles is EUR 315,390 divided into:
- 2.1.1 1,539,000 "A" Ordinary Shares of EUR 0.01 each; and
- 2.1.2 30,000,000 "B" Ordinary Shares of EUR 0.01 each.
- 2.2 Subject to the provisions of the Act, shares may be issued which are to be redeemed or are to be liable to be redeemed at the option of the Company or the Holder on such terms and in such manner as may be provided by the Articles.
- 2.3 The Company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully-paid or partly-paid shares or partly in one way and partly in the other.

## RIGHTS OF THE "A" ORDINARY SHARES

### 3. PARI PASSU WITH "B" ORDINARY SHARES

Save as otherwise specifically provided in these Articles the "A" Ordinary Shares and the "B" Ordinary Shares rank pari passu and constitute a single class of shares.

### 4. RESTRICTIONS ON TRANSFERS

4.1 Subject to Article 4.3, no holder of "A" Ordinary Shares shall Transfer any "A" Ordinary Share except:

- (a) with the prior written consent of the Original Investor Directors; or
- (b) when a transfer is required by Article 5 or Article 15; or
- (c) pursuant to an offer required to be made by Article 14; or
- (d) subject to Article 4.2, to the spouse and/or lineal descendants by blood or adoption (including step-children) (not being minors) ("Family Members") of the "A" Shareholder transferring the relevant "A" Ordinary Shares (the "Transferor"), or such Family Member may transfer any "A" Ordinary Shares to the relevant Transferor, another Family Member or Family Trust (as defined in Article 4.1(e) below) established by the relevant Transferor; or
- (e) subject to Article 4.2, to the trustees of a trust of which the only beneficiaries (and the only persons capable of being beneficiaries) are the "A" Shareholder who established such trust and who is transferring the relevant "A" Ordinary Shares (the "Settlor") and/or his Family Members (a "Family Trust") **PROVIDED THAT** the trustees of any such trust shall (without prejudice to Article 4.2(b)) not be entitled to transfer any "A" Ordinary Shares pursuant to this paragraph (e), other than to replacement or existing trustees of the same trust or to the Settlor or any persons on their becoming entitled to the same under the terms of a family trust; or
- (f) a transfer made upon the death of an "A" Shareholder to his executors, administrators or beneficiaries when the shareholder's personal representatives can no longer be bound to sell those shares pursuant to Article 5.

4.2 Any Transfer made by an "A" Shareholder pursuant to Article 4.1(d) or 4.1(e) is subject to the pre-conditions that the transferee gives a written undertaking to the Company:

- (i) that if the Transferor or Settlor becomes subject to the compulsory transfer provisions of Article 5, the transferee agrees that he or she will be treated as a "Compulsory Transferor" (as defined in Article 5.2); and

- (ii) that the transferee will not transfer the "A" Ordinary Shares other than in accordance with Article 4.1 or otherwise as provided in these Articles.

- 4.3 No holder of "A" Ordinary Shares shall transfer any "A" Ordinary Shares unless (other than in accordance with Article 15) the transferee shall validly have executed a Deed of Adherence in accordance with Clause 12 of the Shareholders Agreement.

## 5. COMPULSORY TRANSFER

- 5.1 This Article applies when an employee or director of or consultant to the Company or any of its subsidiary undertakings who is an "A" Ordinary Shareholder and/or who has Permitted Transferees, ceases for any reason whatsoever (including, without limitation, death) to be employed by or to be a director of or consultant to the Company or any of its subsidiary undertakings and is not continuing to be employed by, a director of or a consultant to the Company or any of its subsidiary undertakings (the "Cessation").
- 5.2 Within 6 months after the date of the Cessation (being the date of cessation of such employment, directorship or consultancy) (or, if the provisions of Article 5.2 prevent any payment being made pursuant to this Article 5, within 2 months of the relevant payment restrictions falling away) the remuneration committee of the board of directors of the Company (the "Remuneration Committee") may serve notice (the "Compulsory Transfer Notice") on the "A" Shareholder, and/or his Permitted Transferees and/or any other person to whom "A" Ordinary Shares have been transferred under Article 4.1 (each a "Compulsory Transferor" and together the "Compulsory Transferors") requiring such person or persons to offer to Transfer some or all of his (or their) holding of "A" Ordinary Shares (together with all rights then attaching thereto and on the terms set out in Articles 5.3 to 5.10) to such person or persons as the Remuneration Committee shall nominate (being any one or more of (i) another director or employee of a member of the Group, (ii) an employee trust established for the benefit of employees of the Group, or (iii) any member of the Group but, for the avoidance of doubt, for the benefit of employees of the Group).
- 5.3 The price at which such Transfer shall be made (the "Sale Price") shall be:
- (a) (subject to (b) below) either the price agreed between the Remuneration Committee and the Compulsory Transferor or, if no agreement is reached within 14 days of the date of the Compulsory Transfer Notice, the price certified by the auditors of the Company (acting as experts and not as arbitrators) (or, if the auditors are unable or unwilling to act for any reason, an Independent Expert) to be the Market Value of such "A" Ordinary Shares at the time of Cessation (or, if the Compulsory Transfer Notice is served more than 6 months after the date of Cessation in accordance with Article 5.2, at the date of the Compulsory Transfer Notice);
  - (b) if the relevant "A" Shareholder, or employee or director resigned his employment, directorship or consultancy (other than by reason of death, permanent ill health, permanent disability or retirement at the normal age or



with the prior approval of the Remuneration Committee) or his contract of employment or his appointment as a director or his consultancy contract was terminated by the Company (or relevant subsidiary undertaking of the Company) properly and lawfully summarily or otherwise in accordance with its terms (including by way of payment of compensation in lieu of notice) in circumstances where the same could have been terminated by the Company (or relevant subsidiary undertaking of the Company) properly and lawfully summarily pursuant to the relevant employment contract or terms of appointment, the Sale Price shall be nominal amount plus any premium paid on subscription of such "A" Ordinary Shares or, if less, the amount provided for in (a) above.

- 5.4 The Compulsory Transferor shall deliver a duly executed stock transfer form and the relative share certificate to the Company within 14 days of agreement, determination or certification of the price in accordance with Article 5.3 in exchange for payment of such price.
- 5.5 If a Compulsory Transferor fails to transfer such "A" Ordinary Shares in accordance with Article 5.4 the directors may (and will if so requested by the Remuneration Committee) authorise any person to execute and deliver as agent for the Compulsory Transferor and on his behalf the necessary stock transfer form and the Company shall receive the purchase money in trust for the Compulsory Transferor and cause the purchaser to be registered as the holder of such shares (subject to payment of any stamp duty). The receipt of the Company for the purchase money shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof). The Compulsory Transferor shall in such case be bound to deliver up his certificate for such "A" Ordinary Shares to the Company whereupon he shall be entitled to receive the purchase price without interest.
- 5.6 "A" Ordinary Shares being transferred by a Compulsory Transfer pursuant to this Article may not be transferred under Article 4.1 (d), (e) or (f).
- 5.7 Where a transfer of "A" Ordinary Shares could otherwise be required pursuant to the operation of this Article 5, the Remuneration Committee may exercise its discretion (by not serving a Compulsory Transfer Notice pursuant to Article 5.2) to permit the "A" Shareholder to continue to hold some or all of his shares provided that the "A" Shareholder executes and delivers to the Remuneration Committee an executed blank stock transfer form in respect of each of the number of "A" Ordinary Shares, held by the shareholder.
- 5.8 Where an "A" Shareholder retains "A" Ordinary Shares pursuant to Article 5.7:
  - (a) the member is not entitled in respect of the "A" Ordinary Shares to be present or to vote (either in person or by proxy) at a general meeting or at a separate meeting of the holders of a class of shares or on a poll; and

- (b) no transfer of the "A" Ordinary Shares (including, for the avoidance of doubt, pursuant to Article 5.2) shall be made or registered unless (i) the transfer is an Excepted Transfer or (ii) the Remuneration Committee otherwise consents.

5.9 The restrictions under Article 5.8(a) cease to apply on an Excepted Transfer.

5.10 For the purposes of this Article 5:

- (a) "Excepted Transfer" means a transfer pursuant to Articles 14 or 15;
- (b) "Market Value" means in relation to a share, the price which the auditors or, if the auditors are unwilling or unable to act, the Independent Expert confirm in writing to be in their opinion the market value of the shares concerned on a sale as between a willing seller and a willing purchaser at arms' length and, in determining such market value, the auditors (or if the auditors are unable or unwilling to act, the Independent Expert) shall be instructed in particular to disregard the rights and restrictions attached to such shares and no discount shall be made by reason of such shares (if such be the case) constituting a minority interest; and
- (c) if the Sale Price is to be certified by the auditors (or the Independent Expert, as the case may be), the costs of the auditors (or Independent Expert) shall be paid by the Company.

## RIGHTS OF THE "B" ORDINARY SHARES

### 6. PARI PASSU WITH "A" ORDINARY SHARES

Save as otherwise specifically provided in these Articles, the "B" Ordinary Shares and the "A" Ordinary Shares shall rank pari passu and shall constitute a single class of shares.

### 7. RESTRICTIONS ON TRANSFER BY ORIGINAL INVESTORS

7.1 No Original Investor shall Transfer any "B" Ordinary Share except:

- (a) where the provisions of Article 14.1 or Articles 14.3-14.8 (as applicable) have been complied with;
- (b) when a Sale, a transfer is required by Article 15;
- (c) pursuant to an offer that is required to be made pursuant to Article 14.1;
- (d) in the case of a "B" Shareholder which is an undertaking, to a group undertaking of the transferor if the transferee gives an undertaking to the Company that if the transferee is to cease to be a group undertaking of the transferor, all its shares in the Company will, before the cessation, be transferred to another group undertaking of the original transferor;
- (e) in the case of a "B" Shareholder which holds "B" Ordinary Shares by or on behalf of a Fund:

- (i) to another nominee, trustee or custodian for, or general partner of, the Fund and any "B" Ordinary Shares held by a nominee, trustee or custodian for such a Fund may be transferred to that Fund or to another nominee, trustee or custodian for such a Fund; or
    - (ii) on a distribution in kind under the constitutive documents of the Fund, to the partners in or holders of units in, or to shareholders of, participants in or the holders of other interests in such Fund (or to a nominee or trustee for any such partners, holders, members or investors) and any "B" Ordinary Shares held by any nominee or trustee for such holders, partners, members or investors may be transferred to such holders, partners, members or investors or to another nominee or trustee for such holders, partners, members or investors; or
    - (iii) a transfer in the ordinary course of business to another Fund which is advised, managed or administered by the same adviser or manager or by another member of the same wholly owned group of such manager or adviser or to a nominee, trustee or custodian for such a fund as the former limited partnership, unit trust, investment trust or investment company;
  - (f) in the case of a "B" Shareholder which holds "B" Ordinary Shares as a nominee, to the person on whose behalf it holds, and has always held, such shares as nominee or to another person acting as nominee of such person;
  - (g) to a Co-Investment Scheme; or
  - (h) in the case of a Co-Investment Scheme which holds "B" Ordinary Shares through another undertaking to:
    - (i) another undertaking which holds or is to hold shares for the Co-Investment Scheme; or
    - (ii) the officers, employees or partners entitled to the "B" Ordinary Shares under the Co-Investment Scheme.
- 7.2 In the case of Transfer pursuant to Article 7.1 (other than in accordance with Article 15) the transferee shall adhere to the Shareholders Agreement in accordance with clause 12 thereof.
- 7.3 No Transfer may be made by an Original Investor to a Non-Permitted Transferee unless the provisions of Article 15 are applicable in respect of such Transfer PROVIDED THAT in no circumstances may a transfer be made in the period of three years following the Effective Date to a LESO.
- 7.4 No Transfer of "B" Ordinary Shares may be made by an Original Investor unless the transferor (or if the relevant Subordinated Preference Certificates are held by an Affiliate of the transferor, such Affiliate) also transfers the Strip Proportion of

Subordinated Preference Certificates for a consideration no greater than the aggregate Redemption Price (as defined in each Subordinated Preference Certificate Instrument) of such Certificates at the time of transfer.

#### **8. RESTRICTIONS ON TRANSFER BY ADDITIONAL INVESTOR SHAREHOLDERS**

- 8.1 No Additional Investor Shareholder shall Transfer any "B" Ordinary Shares except:
- (a) with the prior written consent of the Original Investor Directors (provided always that, if applicable, the provisions of Article 14.1 have been complied with);
  - (b) when a Transfer is required by Article 15;
  - (c) pursuant to an offer required to be made by Article 14.1;
  - (d) in the case of a Additional Investor Shareholder which is an undertaking (the "Original Transferor"), to a group undertaking of the transferor if the transferee gives an undertaking to the Company that if the transferee is to cease to be a group undertaking of the transferor, all its shares in the Company will, before the cessation, be transferred to the Original Transferor or to another group undertaking of the Original Transferor;
  - (e) if permitted in accordance with Article 9 or required by Article 9.14; or
  - (f) to another Additional Investor Shareholder, provided that the provisions of Articles 9.6 to 9.14 inclusive are complied with and subject always to the provisions of Articles 9.1(a) - (d).
- 8.2 In the case of a Transfer pursuant to Article 8.1 (other than in accordance with Article 15), the transferee shall adhere to the Shareholders Agreement in accordance with Clause 12 thereof.

#### **9. ADDITIONAL INVESTOR SHAREHOLDERS AND PRE-EMPTION RIGHTS**

- 9.1 Save for Transfers in accordance with Article 8.1(a) - (d) and 8.1(f) and subject always to the provisions of Article 14, an Additional Investor Shareholder who wishes to Transfer any "B" Ordinary Shares ("Selling Shareholder") shall be permitted to Transfer such "B" Ordinary Shares ("Sale Shares") provided that:
- (a) no Sale Shares may be Transferred to a Non-Permitted Transferee without the consent of the board;
  - (b) no Sale Shares may be Transferred to a transferee (other than the Original Investors) if, as a result of such Transfer, the transferee alone or in aggregate with any Affiliates thereof would together hold or have an interest (whether arising by way of mortgage, charge, lien or other security interest or otherwise and whether a legal or beneficial interest) in 15% or more of the

issued equity share capital of the Company at the relevant time PROVIDED THAT this Article 9.1(b) shall not apply to prevent a shareholder or an Affiliate of a shareholder from acquiring a controlling interest in a LESO, if to do so would result in such shareholder alone or together with any Affiliate thereof owning more than 15% of the issued equity share capital of the Company;

- (c) the number of Sale Shares proposed to be Transferred is not less than:
  - (i) such number that represents 5% of the issued equity share capital of the Company, or if less;
  - (ii) all of the transferring Selling Shareholder's (and their Affiliate's) "B" Ordinary Shares in the Company; or if less
  - (iii) the maximum number of Sale Shares that a transferee is entitled to receive pursuant to the Transfer without breaching the limitation set out in 9.1(b);
- (d) no Sale Shares may be transferred unless the transferor (or if the relevant Subordinated Preference Certificates are held by an Affiliate of the transferor, such Affiliate) also transfers the Strip Proportion of Subordinated Preference Certificates for a consideration no greater than the aggregate Redemption Price (as defined in each Subordinated Preference Certificate Instrument) of such Certificates at the time of transfer;
- (e) the transferee has adhered to the Shareholders Agreement in accordance with clause 12.1.4(c) thereof; and
- (f) the Selling Shareholder has first complied with Articles 9.2 to 9.12.

PROVIDED ALWAYS THAT any transfer under Article 9.1 (c) to (f) shall not be permitted if it would contravene Article 9.1 (b).

- 9.2 At least 30 days prior to the proposed Transfer of any interest in any Sale Shares to which the provisions of Articles 9.6 - 9.13 do not apply, the Selling Shareholder shall serve notice on the Company and the Original Investor Directors ("Sale Notice") stating the number of Sale Shares and pro rata Subordinated Preference Certificates (together the "Relevant Securities") it wishes to transfer and the proposed consideration which must be in cash ("Asking Price"). The Sale Notice shall state that there are no conditions to the transfer other than payment of the Asking Price in cleared funds.
- 9.3 The Original Investors may within 30 days of receipt of the Sale Notice elect to acquire or nominate a third party to acquire the Relevant Securities on the terms set out in the Sale Notice by service of written notice on the Selling Shareholder ("Acceptance Notice") in which case the Selling Shareholder and the Original Investors (or their nominated third party) shall complete the Transfer of the Relevant Security on such

terms not later than the next Business Day following the end of such 30 day period. The Relevant Securities are to be sold with full title guarantee and free from all liens, charges and encumbrances together with all rights attaching to them PROVIDED THAT if the transferee is not an existing party to the Shareholders Agreement it shall be a condition of transfer that the transferee adheres thereto.

- 9.4 If the Selling Shareholder does not transfer the Relevant Securities in accordance with Article 9.3, the directors may authorise any director to transfer the Relevant Securities on the Selling Shareholder's behalf to the transferee against receipt by the Company of the Asking Price. The Company shall hold the Asking Price in trust for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the Asking Price shall be a good discharge to the transferee. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender his share certificate and Subordinated Preference Certificate for the Relevant Securities to the Company. On surrender, he shall be entitled to the Asking Price for the Relevant Securities.
- 9.5 If the Original Investors do not serve an Acceptance Notice within the required period or, having served an Acceptance Notice, the Original Investors (or nominated third party) fail to comply with their obligations under 9.3 then, subject to compliance of Articles 9.1 (a) to (e), the Selling Shareholder may within the 180 day period commencing on the Business Day following the last day on which an Acceptance Notice could be served transfer the Relevant Securities to any person at no less than the Asking Price and on terms no more favourable to the transferee as those in the Sale Notice.
- 9.6 An Additional Investor Shareholder who wishes to transfer any "B" Ordinary Shares to another Additional Investor Shareholder (a "Seller" and "Pre-emption Shares" respectively) shall first serve notice on the Company (the "Pre-emption Notice") setting out the number of Pre-emption Shares and the identity of the proposed purchaser (the "Proposed Purchaser") and the agreed purchase price for each share (the "Pre-emption Purchase Price").
- 9.7 The Seller may specify in the Pre-emption Notice that it is only willing to transfer all of the Pre-emption Shares, in which case no Pre-emption Shares can be sold unless offers are received for all of them, save to the extent that offers are received from Additional Investor Shareholders who wish to acquire all of the Pre-emption Shares but who would, if they acquired all of such shares, be in breach of Article 9.1(b), in which case such number of Pre-emption Shares shall be transferred as to ensure the purchaser thereof shall not be in breach of Article 9.1(b) (an "Article 9.1(b) Transfer").
- 9.8 The Pre-emption Notice shall make the Company the agent of the Seller for the sale of the Pre-emption Shares on the terms set out in the Pre-emption Notice and on the following additional terms, in each case which the Company shall notify in writing to the other Additional Investor Shareholders and the Original Investor Shareholders within 7 days of the date of the Pre-emption Notice:

- 9.8.1 the Pre-emption Shares are to be sold free from all liens, charges and other encumbrances and together with all rights attaching to them;
- 9.8.2 each of the other Additional Investor Shareholders (including the Proposed Purchaser) is, subject always to compliance with Article 9.1(b), entitled to buy such proportion of Pre-emption Shares as reflects, as nearly as possible, the proportion of the issued "B" Ordinary Shares held by the Additional Investor Shareholders at the date of the Pre-emption Notice; an Additional Investor Shareholder is entitled to buy fewer Pre-emption Shares than his proportional entitlement;
- 9.8.3 Additional Investor Shareholders may, subject always to compliance with Article 9.1(b), offer to buy any number of the Pre-emption Shares that are not accepted by the other Additional Investor Shareholders (the "Excess Pre-emption Shares");
- 9.8.4 any offer by the Additional Investor Shareholders to buy some or all of the Pre-emption Shares shall be made in writing to the Company within 21 days of the date of the Company's notice (the "Pre-emption Closing Date"), failing which the Additional Investor Shareholder shall be deemed to have declined the offer;
- 9.8.5 any offer by the Additional Investor Shareholders for Pre-emption Shares shall include an offer for, and the Seller shall (subject to Article 9.7) be bound to sell in the event the offer is, or is deemed, accepted, such proportion of the Subordinated Preference Certificates held by the Seller as equals the proportion which the Pre-emption Shares represent of the Selling Shareholder's entire holding of "B" Ordinary shares (the "Specified Proportion"), at a price equivalent to the redemption value of such Subordinated Preference Certificates (on the assumption they are redeemed in accordance with their terms on the Pre-emption Closing Date); and
- 9.8.6 on the Pre-emption Closing Date:
- (a) the Pre-emption Notice shall become irrevocable; and
  - (b) each offer made by an Additional Investor Shareholder to acquire Pre-emption Shares shall become irrevocable.
- 9.9 If the Company receives offers for more "B" Ordinary Shares than the number of Pre-emption Shares, each Additional Investor Shareholder who offered to buy Excess Pre-emption Shares shall be deemed (so far as practicable and without exceeding the number of shares which each such Additional Investor Shareholder shall have offered to purchase) to have offered to purchase a number of Excess Pre-emption Shares reflecting, as nearly as possible, the number of Excess Pre-emption Shares he offered to buy as a proportion of the total number of Excess Pre-emption Shares for which offers were received.

- 9.10 Within 14 days after the Pre-emption Closing Date, the Company shall notify the result of the offer to the Seller and to those Additional Investor Shareholders who offered to buy Pre-emption Shares and, if any Pre-emption Shares are to be sold pursuant to the offer:
- 9.10.1 the Company shall notify the Seller in writing of the names and addresses of the Additional Investor Shareholders who are to buy Pre-emption Shares and the number to be bought by each;
  - 9.10.2 the Company shall notify each Additional Investor Shareholder in writing of the number of Pre-emption Shares he is to buy; and
  - 9.10.3 the Company's notices shall state a place and time, between 7 and 14 days after the date of the notice, on which the sale and purchase of the Pre-emption Shares is to be completed and the Seller shall be obliged to transfer such Pre-emption Shares upon payment of the Pre-emption Purchase Price for each such share. However, if the Pre-emption Notice specifies that the Seller is only willing to transfer all of the Pre-emption Shares and the Company does not receive offers for all the Pre-emption Shares (unless the reason therefore is an Article 9.1(b) Transfer), then the provisions of Article 9.12 shall apply (or, if there is an Article 9.1(b) Transfer, shall only apply to those Pre-emption Shares which are not to be transferred pursuant to the Article 9.1(b) Transfer and the other Pre-emption Shares shall be sold and purchased in accordance with this Article 9.10.3).
- 9.11 If the Seller fails to transfer any Pre-emption Shares in accordance with Article 9.10, the Board may (and shall if so requested by an Original Investor Director) authorise any director to execute, complete and deliver in the name of and as agent for the Seller a transfer of the Pre-emption Shares to the Additional Investor Shareholders concerned against receipt by the Company of the aggregate Pre-emption Purchase Price due from the Additional Investor Shareholder(s) concerned. The Company shall hold such sums in trust for the Seller without any obligation to pay interest. The Company's receipt of the aggregate Pre-emption Purchase Price due from an Additional Investor Shareholder in respect of the Pre-emption Shares to be acquired by him shall be a good discharge to the relevant Additional Investor Shareholder. The directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Seller shall surrender to the Company his share certificate (or, where appropriate, provide an indemnity in respect thereof in a form satisfactory to the Board) for the Pre-emption Shares to be transferred by him whereupon he shall be entitled to the Pre-emption Purchase Price for the relevant Pre-emption Shares. If such certificate shall comprise any shares which the Seller has not become bound to transfer as aforesaid, the Company shall issue to the Seller a new certificate for such shares.
- 9.12 If, by the Pre-emption Closing Date, the Company has not received offers for all the Pre-emption Shares, the Seller may within the next 14 days transfer the Pre-emption Shares for which offers were not received (or, if the Pre-emption Notice stated that he was only willing to transfer all the Pre-emption Shares, all the Pre-emption Shares) to



the Proposed Purchaser at no less than the Pre-emption Purchase Price and otherwise on terms no more favourable than those specified in the Company Notice **PROVIDED THAT:**

- 9.12.1 if the Seller stipulated in the Pre-emption Notice that he was only willing to transfer all the Pre-emption Shares, the Seller shall not be entitled, without the written consent of an Original Investor Director, to sell only some of the Pre-emption Shares to the Proposed Purchaser;
  - 9.12.2 the Board shall refuse registration of the proposed transferee if such transfer obliges the Seller to procure the making of an offer pursuant to Article 14.1, until such offer has been made and completed; and
  - 9.12.3 the Specified Proportion of the Seller's Subordinated Preference Certificates are also transferred to the Proposed Purchaser at the price referred to in Article 9.8.5.
- 9.13 If an Additional Investor Shareholder breaches or otherwise fails to comply with its obligations in any material respect pursuant to this Article 9, the board of directors of the Company with the consent of the Original Investor Directors and the Additional Investor Directors may serve notice (the "Compulsory Transfer Notice") on such defaulting shareholder (a "Compulsory Transferor") requiring such persons to offer to transfer his entire holding of Ordinary Shares (free from all liens, charges, encumbrances and third party rights whatsoever and together with all rights then attaching thereto) on the terms set out in Articles 9.13.1 to 9.13.4 to the Original Investors.
- 9.13.1 the prices at which the Transfer shall be made shall be Market Value (as such term is defined in Article 5.10);
  - 9.13.2 the Compulsory Transferor shall deliver a duly executed stock transfer form and relevant share certificate to the Company within 14 days of certification of the price in accordance with Article 9.13.1 in exchange for payment on such price;
  - 9.13.3 if the Compulsory Transferor fails to transfer such Ordinary Shares in accordance with Article 9.13.2, the directors may authorise any person to execute and deliver as agent for the Compulsory Transferor and on behalf the necessary stock transfer form and the Company shall receive the purchase money in trust for the Compulsory Transferor and cause the purchaser to be registered as the holder of such shares (subject to payment of any stamp duty). The receipt of the Company for the purchase money shall be good discharge for the purchaser (who shall not be bound to see the application thereof). The Compulsory Transferor shall in such case be bound to deliver up his certificate for such Ordinary Shares to the Company where upon he shall be entitled to receive the purchase price without interest;

- 9.13.4 if a Compulsory Transferor is required to sell some or all of his Ordinary Shares pursuant to a Compulsory Transfer Notice, then the Company may procure that the same proportion of such shareholders holding of Subordinated Preference Certificates shall (subject to the Finance Documents) be repurchased by SPCCo Market Value (as such term is defined in Article 5.10 provided that reference to "shares" in Article 5.10 shall be replaced with "Subordinated Preference Certificates").

#### 10. SHAREHOLDER TRANSFERS

- 10.1 For the purpose of ensuring compliance with the transfer provisions in these Articles and that a Transfer of Ordinary Shares is permitted under these Articles or that no circumstances have arisen whereby a notice is required to be or ought to have been given under these Articles or that an offer is required to be or ought to have been made pursuant to Article 14 the Board may, and shall if so requested by an Original Investor Director provided the Original Investors hold a Majority Original Investor Stake, require any Shareholder (or the personal representative of a Shareholder who has died) (for the purposes of this Article the "Relevant Shareholder") to procure that such person as the Board or the Original Investor Director may reasonably believe to have information relevant to such purpose, provides the Company with such information and evidence as the Board (or the Original Investor Director) may reasonably require regarding any matter which they reasonably deem relevant to such purpose (including, without limitation, the names of all persons having interests in the shares from time to time registered in the Shareholder's name). Until such information or evidence is provided to the reasonable satisfaction of the Board, the Board shall after giving five Business Days written notice, be entitled to refuse to register any relevant transfer and, on expiry of such notices, the Relevant Shareholder shall cease to be entitled in respect of the Ordinary Shares it holds to be present or to vote (either in person or by proxy) at a general meeting or at a separate meeting of the holders of a class of shares or on a poll.

#### RATCHET

#### 11. RATCHET

- 11.1 In the event of a Sale (as defined in Article 14), but provided always that such Sale is a bona fide arm's-length sale to a third party purchaser and so that all references in this Article 11 to "Sale" shall be construed accordingly), Listing or a solvent winding-up or dissolution of the Company ("Winding-Up") where the Total Fund Return exceeds the Target Return and all Subordinated Preference Certificates have been redeemed in full or purchased in connection with any Sale for an amount not less than the amount that would be payable to the holders of the Subordinated Preference Certificates had they been redeemed in accordance with the terms thereof on the Relevant Date, then immediately prior to such Sale, Listing or Winding-Up but subsequent to the issue of "B" Ordinary Shares pursuant to exercise of the Warrants in connection with such Sale, Listing or Winding Up (the "Relevant Date") such number of "B" Ordinary Shares shall be purchased by the Company in accordance with Article 11.5 as shall result in

the holders of "A" Ordinary Shares holding an additional proportion of the issued equity share capital which has a value equal to a percentage of the Excess Equity Proceeds calculated in accordance with the following formula:

$$5.7 \times (Q - 2)\%$$

where Q is equal to the product of the Total Fund Return divided by the Investment Cost provided that Q shall never be less than 2 or greater than 3 and so that the result of the formula shall never exceed 5.7%.

For the avoidance of doubt, if the Total Fund Return on the Relevant Date does not exceed the Target Return no "B" Ordinary Shares shall be bought back.

For the avoidance of doubt, in the event that not all the Warrants are exercised in full on the Relevant Date and some or all of the Warrants will remain outstanding, any shares which may be issuable at any time after the Relevant Date pursuant to the Warrant Instrument shall not be taken into account in determining the number of "B" Ordinary Shares to be bought back and no value attributable to the Warrants or such shares will be included within Total Equity Proceeds.

11.2 For the purposes of this Article 11 the following terms have the meanings set out below:-

11.2.1 "Excess Equity Proceeds" means Total Equity Proceeds less Trigger Equity Proceeds.

11.2.2 "Total Equity Proceeds" means:

(a) in the case of a Listing, an amount equal to:

$$(Cash\ Exit\ Share\ Price \times CL) + (Post\ Listing\ Valuation) - Costs$$

and where:

CL = the number of issued equity shares which are sold by the holders thereof in connection with the Listing; and

(b) in the case of a Sale, an amount equal to:

$$(Cash\ Exit\ Share\ Price \times CS) + (Non-Cash\ Sale\ Valuation \times NCS) - Costs$$

and where:

CS = the number of issued equity shares which are sold for cash or retained by the holders thereof in connection with the Sale; and

NCS = the number of issued equity shares which are sold in connection with the Sale (i) for cash consideration but on terms that such cash is payable otherwise than in full on the Relevant Date or (ii) for non-cash consideration; and

(c) in the case of a Winding-up, the amount to be distributed on the Winding-up to shareholders in the Company minus any Costs.

11.2.3 "Trigger Equity Proceeds" means the theoretical Total Equity Proceeds which gives the Original Investors a Total Fund Return that equals the Target Return.

11.2.4 "Cash Exit Share Price" means:-

- (a) in the case of a Listing, the price per share received in cash by the holders of equity shares in the Company (in the case of an offer for sale, being the underwritten price or, if an offer for sale by tender, the striking price under such offer or, in the case of a placing, the price at which shares are sold under the placing);
- (b) in the case of a Sale, the net price per share received in cash by each holder of "A" Ordinary Shares and "B" Ordinary Shares as consideration on the Sale;

calculated on a fully diluted basis after taking account of all shares to be issued on or before the Relevant Date and after operation of the provisions of this Article 11.

11.2.5 "Non-Cash Sale Valuation" means the price per share of any non-cash consideration received or receivable by holders, its value shall be as agreed by the holders of not less than 50% in nominal value of the "B" Ordinary Shares and the holders of not less than 50% in nominal value of the "A" Ordinary Shares or, in the absence of such agreement at least 5 days prior to the Relevant Date, as determined by the Independent Expert based on the following principles:

- (a) the Independent Expert shall take account of any restriction, both in time and in substance on the dealing of the non-cash consideration and the impact of the nature and amount of the non-cash consideration on its marketability; and
- (b) the Independent Expert shall take account of the discounted cash flow effect of the holder not being able to sell or realise cash for the consideration.

11.2.6 "Costs" means the costs and expenses incurred by the Company or any holders of equity shares in the Company in connection with the Listing, Sale or Winding-Up (including legal fees, commission, transfer costs and any other third party fees and expenses).

11.2.7 "Retained Shares" means any issued equity shares in the Company which, immediately following the Relevant Date continue to be held by any persons

who are holders of equity share capital immediately prior to the Relevant Date.

11.2.8 "Target Return" means an amount equal to two times the Investment Cost.

11.3 If, as part of the arrangements relating to the Listing, there are any Retained Shares then, prior to the Listing, the Company shall appoint the underwriter to the Listing or, if the Company and the Original Investors agree, an internationally recognised investment bank (the "Valuer") to produce a valuation of such Retained Shares. The Valuer (acting as expert and not as arbitrator) shall certify the aggregate value of the Retained Shares at the time of Listing (the "Post-Listing Valuation") based on the following principles:-

11.3.1 the Valuer shall take account of:

- (a) the size and nature of the holding of the Retained Shares and implications in respect of the marketability of such Retained Shares;
- (b) any agreements or undertakings restricting the ability to freely dispose of the Retained Shares.

11.3.2 the Valuer shall take account of the discounted cashflow effect of the relevant shareholder not being able to sell the Shares at the time of Listing; and

11.3.3 the Valuer shall disregard (i) any premium attributable to the size of the Retained Shares (ii) any premium or discount that may arise if the Retained Shares were being sold in part.

11.4 The buy-back of the "B" Ordinary Shares shall be made amongst the holders thereof pro rata as nearly as possible to their then holdings of "B" Ordinary Shares.

11.5 Upon the due date for the buy-back of "B" Ordinary Shares pursuant to Article 11.1, the Company shall have irrevocable authority to purchase the same in accordance with the Act for not more than EUR 0.01 for all the "B" Ordinary Shares falling to be bought back and without, for the avoidance of doubt, having to obtain the sanction of any holder of "B" Ordinary Shares.

11.6 On any buy-back pursuant to Article 11, the Company shall cancel the share certificate of the shareholder concerned and, in the case of a buy-back of part of the shares included in the certificate, without charge issue a fresh certificate for the balance of shares not bought back.

11.7 Article 11 will cease to apply immediately following the occurrence of the first to occur of a Sale, Listing or Winding-Up whether or not there has been any buy-back of "B" Ordinary Shares.

## 12. RIGHT TO APPOINT DIRECTORS

12.1 Without prejudice to Article 37.5, the Apax Original Investors (when taken together), are, for so long as they hold at least a Qualifying Threshold of the issued ordinary

shares in the Company, entitled from time to time successively to appoint a non-executive director of the Company and to remove such director and appoint another person in their place. The initial appointments shall be made pursuant to the Shareholder Agreement. Subsequent appointments and removals shall be made by written notice served on the Company. Any director so appointed shall be automatically removed from the Board, in the event that the Apax Original Investors (when taken together) cease to hold at least a Qualifying Threshold of the issued shares in the Company.

12.2 Without prejudice to Article 37.5, the Permira Original Investors (when taken together), are, for so long as they hold at least a Qualifying Threshold of the issued ordinary shares in the Company, entitled from time to time successively to appoint a non-executive director of the Company and to remove such director and appoint another person in their place. The initial appointments shall be made pursuant to the Shareholder Agreement. Subsequent appointments and removals shall be made by written notice served on the Company. Any director so appointed shall be automatically removed from the Board, in the event that the Permira Original Investors (when taken together) cease to hold at least a Qualifying Threshold of the issued shares in the Company.

12.3 The Apax Original Investors (when taken together) are, for so long as they hold at least a Qualifying Threshold of the issued shares in the Company (whether or not they have exercised their right to appoint an Original Investor Director), entitled from time to time, by notice to the Company, successively to appoint an observer (the "Apax Observer"), to remove the Apax Observer and to appoint another Apax Observer in his place. An Apax Observer shall have the right to attend all meetings of the Board and of the board of directors of any subsidiary undertaking of the Company. An Apax Observer shall be given all information as a director of the relevant company (including the Original Investor Directors) would be entitled to receive and to receive that information (including notice of meetings) at the same time as it is provided to the directors of the relevant company, and shall be subject to the same duty of confidentiality as an Investor Director. An Apax Observer shall be entitled to attend and speak at any such meetings but shall not be entitled to vote nor shall an Apax Observer be regarded as an officer of the Company or any subsidiary of the Company. Any Apax Observer so appointed shall be automatically removed, in the event that the Apax Original Investors (when taken together) cease to hold at least a Qualifying Threshold of the issued shares in the Company.

12.4 The Permira Original Investors (when taken together) are, for so long as they hold at least a Qualifying Threshold of the issued shares in the Company (whether or not they have exercised their right to appoint an Original Investor Director), entitled from time to time, by notice to the Company, successively to appoint an observer (the "Permira Observer"), to remove the Permira Observer and to appoint another Permira Observer in his place. A Permira Observer shall have the right to attend all meetings of the Board and of the board of directors of any subsidiary undertaking of the Company. A Permira Observer shall be given all information as a director of the relevant company

(including the Original Investor Directors) would be entitled to receive and to receive that information (including notice of meetings) at the same time as it is provided to the directors of the relevant company, and shall be subject to the same duty of confidentiality as an Investor Director. A Permira Observer shall be entitled to attend and speak at any such meetings but shall not be entitled to vote nor shall a Permira Observer be regarded as an officer of the Company or any subsidiary of the Company. Any Permira Observer so appointed shall be automatically removed, in the event that the Permira Original Investors (when taken together) cease to hold at least a Qualifying Threshold of the issued shares in the Company.

- 12.5 A Qualifying Additional Investor Shareholder is entitled to appoint a non-executive director to the board of the Company (an "Additional Investor Director") and remove such director. Any Additional Investor Director shall be automatically removed from the board in the event that the Additional Investor Shareholder who has appointed him ceases to be a Qualifying Additional Investor Shareholder. Such appointments and removals shall be made by written notice served on the Company.

### 13. EXPENSES OF DIRECTORS

Each Original Investor Director and Additional Investor Director is entitled to reimbursement by the Company or other relevant subsidiary of the Company of all costs and expenses properly incurred by him in connection with his office as a director (plus VAT or overseas equivalent), including, without limitation, as a director of any subsidiary of the Company and as a member of any committee of the board of any subsidiary of the Company.

### 14. TAG ALONG RIGHTS

- 14.1 Save for any Transfers to an Original Investor or by a shareholder to any of its Affiliates, if a Transfer of any Ordinary Shares would result if made and registered in a person and any other person who in relation to him is a connected person (as defined by s.839 Income and Corporation Taxes Act 1988) (a "connected person" or "person connected with" him) or with whom he is acting in concert (as defined in The City Code on Takeovers and Mergers) holding, or increasing a holding of, more than 50 per cent. of the issued Ordinary Shares (a "Sale") then no such Transfer shall be made unless:

- (a) the proposed transferee has made an offer in writing to acquire all the Ordinary Shares and all Warrants (or all "B" Ordinary Shares issued upon exercise of Warrants in connection with the Sale) at the same price and on the same terms as it is proposing to acquire such Ordinary Shares, except that:
  - (i) such offer must be open for acceptance for at least 21 Business Days; and
  - (ii) if the proposed transferee or a person connected with him has acquired or agreed to acquire any other Ordinary Shares within the period of six months prior to such offer or subsequently prior to the completion of the

Sale at a higher price then the terms of such offer shall be increased to equal the highest price paid by any such persons within that period;

and unless each such accepted offer has been completed and the consideration thereunder paid except insofar as failure to complete is due to the fault of the offeree; and

- (b) amounts outstanding under the Subordinated Preference Certificates are redeemed in accordance with the terms of such Subordinated Preference Certificate or the proposed transferee acquires all Subordinated Preference Certificates held by Ordinary Shareholders and Warrantholders accepting the offer referred to in Article 14.1(a) for a consideration equal to the redemption price (after deduction of tax) of such Subordinated Preference Certificates.
- 14.2 This Article 14 shall not apply to any transfer to which the provisions of Articles 8.1(b) or (d) or Articles 7.1(b) or (d) to (h) inclusive, apply.
- 14.3 If a Transfer of any Ordinary Shares is proposed by any of the Original Investors (a "Proposed Seller") which does not constitute a Sale under Article 14.1 above (a "Partial Sale"), then no such Transfer shall be made unless the provisions of Articles 14.4 to Article 14.8 are adhered to.
- 14.4 Any Proposed Seller shall give written notice (the "Proposed Sale Notice") to all other shareholders the ("Tagging Shareholders") and Warrantholders (the "Tagging Warrantholders") of such intended sale at least fifteen days prior to the date of the proposed Partial Sale. The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents, the identity of the proposed buyer (the "Proposed Buyer"), the purchase price and other terms and conditions of payment, the proposed date of sale (the "Proposed Sale Date") and the number of Ordinary Shares proposed to be purchased by the Proposed Buyer (the "Proposed Sale Shares"). If the Proposed Buyer or a person connected with him has acquired or agreed to acquire any other Ordinary Shares within the period of six months prior to such offer or subsequently prior to the completion of the Sale at a higher price then the terms of such offer shall be increased to equal the highest price paid by any such persons within that period (the "Higher Offer").
- 14.5 Any Tagging Shareholder shall be entitled, by written notice given to the Proposed Sellers within fifteen Business Days of receipt of the Proposed Sale Notice, to require the Proposed Buyer (contemporaneously with the purchase of the Proposed Sale Shares) to purchase such portion of the Tagging Shareholder's Ordinary Shares which is equal to the portion that the number of Proposed Sale Shares that the Proposed Sellers intend to sell bears to the Proposed Sellers entire holding of Ordinary Shares, on the same terms as specified in the Proposed Sale Notice or the Higher Offer (whichever is relevant).
- 14.6 Any Tagging Warrantholder shall be entitled, by written notice given to the Proposed Sellers within fifteen Business Days of receipt of the Proposed Sale Notice, to require



the Proposed Buyer (contemporaneously with the purchase of the Proposed Sale Shares) to purchase (i) such number of the Warrantholder's Warrants which, on exercise would entitle the holder to the issue of such number of "B" Ordinary Shares (expressed as a proportion of the maximum number of "B" Ordinary Shares which such Warrantholders would acquire upon exercise of all of his Warrants in full) which is pro rata to the number of Proposed Sale Shares that the Proposed Sellers intend to sell bears to the Proposed Sellers entire holding of Ordinary Shares, on the same terms as specified in the Proposed Sale Notice or the Higher Offer (whichever is relevant) save that the price for each such Warrant to be sold shall be equal to the price per Proposed Sale Share offered to the holders of the Proposed Sale Shares multiplied by the number of "B" Ordinary Shares which would be issued upon a full exercise of the subscription rights remaining outstanding under such Warrant less an amount equal to the aggregate subscription price payable by the Warrantholder upon such exercise.

- 14.7 No Proposed Sale shall be completed unless the same proportion of the Tagging Shareholders' and the Proposed Seller's holdings of Subordinated Preference Certificates shall (subject to the Finance Documents) be redeemed or acquired at a price as though they had been redeemed in accordance with their terms at the same time as the Partial Sale is made in accordance with the terms of Subordinated Preference Certificates.
- 14.8 No Partial Sale shall be completed unless the same proportion of the Tagging Warrantholder's and the Proposed Seller's holdings of Subordinated Preference Certificates shall (subject to the Finance Documents) be redeemed or acquired at a price as though they had been redeemed in accordance with their terms at the same time as the Partial Sale is made in accordance with the terms of Subordinated Preference Certificates.

#### **DRAG ALONG RIGHTS**

##### **15. OBLIGATION TO SELL SHARES ON RECEIPT OF A QUALIFYING OFFER**

- 15.1 If at any time a Transfer or Transfers of Ordinary Shares pursuant to these Articles result in a bona fide, arm's-length Sale for a consideration payable in cash or with a full cash alternative to any non-cash element of the consideration and the Auditors or, if the, auditors are unwilling to act, the Independent Expert appointed for these purpose by the Company alone, (acting as experts and not as arbitrators) confirm in writing that in their opinion the value of the non-cash consideration is not greater than the amount of the cash alternative, in the case (a) of a Sale within three years of the Completion Date (as defined in the Shareholders Agreement) if the Cash Total Fund Return is equal or greater than two times the Investment Cost and (b) of any Sale following expiration of the period referred to in (a) and provided in each case the transferee is not an Affiliate of any of the Original Investors, the transferee may by serving a notice (a "Compulsory Purchase Notice") on each other shareholder holding Ordinary Shares (each a "Minority Shareholder"), require each Minority Shareholder to transfer all the Ordinary Shares held by him (free from all liens, charges, encumbrances and other